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Remarks

Claims 1-27 are canceled and new claims 28-31 are presented upon entry of the above amendments associated with the Request for Continued Examination. This communication constitutes a bona fide attempt by applicants to advance prosecution of the application and obtain allowance of the claims, and is in no way meant to acquiesce to the substance of the rejections.

For explanatory purposes, applicants discuss herein one or more differences between the applied references and the claimed invention with reference to one or more parts of the applied references. This discussion, however, is in no way meant to acquiesce in any characterization that one or more parts of the applied references correspond to the claimed invention.

New claims 28-29 have similarities to claims 25 and 27, and claims 30-31 have similarities to claims 26 and 27.

Claim 28 will be discussed with regard to the grounds applied in rejecting claim 25. Claim 28 was rejected under 35 U.S.C. 103 as being unpatentable over Aburai (U.S. publication No. 0, 090,953) in view of Kowaguchi (U.S. Patent No. 6,201,973), and in further view of Tomoike (U.S. Patent No. 6,233,447). It is respectfully submitted that claim 28 is not rendered obvious in view of these references for the reasons explained below.

In claim 28 location information for one or more designated geographical areas is stored in a mobile communication device. The mobile communication device determines when it is within one of the one or more designated geographical areas. Activation of an audible incoming call indicator at the mobile communication device is prevented while it is within one of the one or more designated geographical areas. The latter step includes receiving a first signal at the mobile communication device from its supporting exchange wherein the signal represents that the one of the one or more designated geographical areas comprises one or more high traffic areas. Activation of the audible incoming call indicator is prevented in the mobile communication device in response to receipt of the first signal.

It was acknowledged in the final Office Action that Aburai in view of Kowaguchi does not teach the steps of preventing activation of the audible incoming call indicator based on information transmitted from the infrastructure to the mobile device concerning high traffic congestion. Thus, these two references considered individually or in combination with other references do not provide a teaching of these limitations.

Tomoike is directed to a communication system which can restrict incoming calls to a mobile communication exchange during times of traffic congestion at the exchange and can eliminate wasteful processing associated with constructing a path to a restricted exchange from the calling party's originating exchange. When a call is requested to be placed to a mobile being served by an exchange having high traffic congestion, the call set-up request is routed to a location register located in the infrastructure. The location register, having been previously notified that the destination exchange (the exchange supporting the called party mobile) has high traffic congestion, causes the call process and call paths to be interrupted thereby eliminating a path connection that would have been typically set up between the originating exchange and the destination exchange, and eliminating processing of the call request by the destination exchange. See Tomoike: Abstract and figure 2.

Tomoike at col. 2, line 59 - col. 3, line 2 was cited in the final Office Action as teaching that the exchange provides the mobile communication device with a signal indicating that the mobile communication device is in a high congestion area. This portion of Tomoike explains that a location register in the infrastructure obtains traffic congestion information about each mobile communication exchange. A call request to a mobile served by an exchange with high traffic congestion will cause the set up of a call path to the congested exchange to be interrupted based on the information contained in the infrastructure's location register. A request for call path set up will be not forwarded to a congested destination exchange serving the called party mobile. Since the call path to the congested exchange is interrupted prior to its completion, it is obvious that the destination mobile supported by the congested exchange will receive no communications relating to the attempted call from the exchange. Claim 28 specifies that the mobile communication device receive a first signal from its supporting exchange representing that the mobile is in a high traffic area. Clearly, such a signal is not transmitted to a destination

mobile from a supporting congested exchange as per Tomoike. Thus, Tomoike does not provide a teaching of the requirements of claim 28 since there is no suggestion that the congestion information or a signal associated with the congestion information is communicated to a mobile.

One of ordinary skill in the art would not arrive at the invention according to claim 28 even if Tomoike were considered in combination with the other two applied references. It is well-settled that teachings of a reference that teach away from a limitation of the claimed invention must be considered as well as teachings of the reference that could point towards the invention. A general objective of Tomoike is to not place a heavier load, i.e. require additional processing and actions, by an already congested exchange. This would lead one of ordinary skill in the art to not have a congested exchange, i.e. the exchange supporting communications with the subject mobile device, attempt to send any information to the mobile, especially about an attempted call that is intentionally not set up since such a communication would inherently increase the load on the already congested exchange. Thus, one of ordinary skill in the art if faced with combining the teachings of Tomoike with the other two references would likely implement the interruption of an attempted call path routing solely in the infrastructure as described in Tomoike. Based on the teachings of Tomoike to avoid further loading of a congested exchange, one of ordinary skill the art would not have such a congested exchange attempt to communicate a signal to a supported mobile device, and hence the invention according to claim 28 is not rendered obvious even in view of the combination of these three references.

Claim 29 depends on claim 28 and further defines the step of transmitting to the mobile communication device location information for the high traffic areas wherein use of audible incoming call indicators is restricted. As explained above, Tomoike would not lead one of ordinary skill the art to consider having a congested exchange that supports the mobile transmit location information to the mobile device. Further, it should be noted that the call path interruption process as described in Tomoike is accomplished exclusively in the infrastructure, and does not involve use of the mobile devices nor the communication of information concerning congestion to them. This provides yet a further reason why one of ordinary skill the art would not be lead to the present invention in accordance with claims 28 and/or 29.

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Claim 30 is not rendered obvious based on the applied combination of references since the reference (Tomoike) relied upon as teaching the required steps of claim 30 does not provide the teaching as alleged for the same reasons explained above with regard to claim 28 and/or 29. Claim 30 is directed to outgoing calls from the communication device. Tomoike, as shown in figure 2, is directed to alleviating traffic congestion at the exchange serving a destination mobile with regard to incoming calls to the mobile. Thus, claim 30 is not rendered obvious based on the applied combination of references.

Claim 31 is not rendered obvious based on similar reasons explained above for claim 29.

If a telephone conference would be of assistance in advancing the prosecution of this application, the Examiner is invited to call applicants' attorney at 630-584-9206.

Respectfully submitted,



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